

"a user interface connected to the system..." at Fig. 1, col. 5, lines 63-66.

4. As per claims 2, 8, 13 and 14, "memory for storing attribute data..." at Fig. 1, col. 5, lines 25-40.

5. Teng also anticipated the independent claim 3 by the following:

"polling at least two platforms..." at Fig. 5, col. 7, lines 53-67 to col. 8, line 1;

"collecting the attribute data..." at Fig. 5, col. 8, lines 1-6;

"displaying the collected attribute data..." at Fig. 6, col. 8, lines 32-35.

6. As per claims 6 and 7, "the step of collecting copyright information..." at Fig. 5, col. 8, lines 5-12.

7. As per claims 9, 10 and 11, "automatically displaying the attribute..." at Fig. 8, col. 9, lines 49-67 to col. 10, lines 1-28."

The plain and simple fact of the matter is that Teng discloses a method of distributing software file that are resident on a network server to a network client. To effectuate the distribution, the network client issues an HTTP formatted request message to the network server which requests that certain software files resident on the network server be downloaded to the network client. The HTTP formatted request message may include information indicative of one or more of the operating system or processor architecture associated with the network client that the network server can use as an aide in determining which software files to return to the network client. The software files are bundled into a cabinet file by the network sever and returned to the network client which, in turn, automatically unbundles the cabinet file, checks the

authenticity of certain of the individual software files, and installs the software files in appropriate memory location associated with the network client. In this manner, a world wide distributed printing solution is provided that is capable of working transparently on intranets and the Internet. From reading this disclosure it is respectfully submitted that what is more than obvious is the fact that the Examiner has clearly overgeneralized with regard to that which the Teng patent actually teaches with regard to the actual disclosure of applicants invention. The Examiner's attention is specifically directed to the fact that the Teng patent details Microsoft's point-and-print architecture for installing a printer driver. As the Teng patent states, a client contacts a server to install a printer driver located on the server. As part of this request, the client provides the server with some necessary information (e.g. its operating system). Based on this information, the server locates the files for the requested printer and returns it to the client. The client then installs the printer driver. Whereas the present invention instead details an accumulation of similar information (specifically copyright years) from multiple sources, consolidating the information into a single piece of information (e.g. a merged copyright list), and presenting the consolidation information to a user. This is not the subject matter that is taught by the Teng patent.

Regarding paragraph 3 of the Official Action:

I) the present application details a "system manager that gathers information from multiple platforms (independent objects)" The Teng Patent has a network server, i.e. a piece of software that resides on a server and responds to the network

requests. The network server does not coordinate the activities of a number of independent platforms. The network server does not gather attributes from independent platforms. As the Teng patent states, the network server finds the files pertaining to a specific printer driver.

II) the Teng patent does mention a user interface. However, this user interface is not used to present attributes to a user.

Regarding paragraph 4 of the Official Action:

I) the Teng patent does mention memory for stored information. What the patent is referring to is the client's use of memory that contains what operating system it is.

Regarding paragraph 5 of the Official Action:

I) the Teng patent does not contain the concept of "polling at least w platforms". At the lines mentioned, the Teng patent is referring to the acquiring of the network client's specific "form" by getting it from the appropriate file. The specific file where this information resides varies from OS to OS.

II) These lines from the Teng patent, as stated above, detail the acquiring the network client's specific "form".

III) Teng's patent (lines 32-34 of col. 8) does not have anything to do with displaying collected attribute data. Teng's patent is referring to finding in the client's initial request the specific printer being installed and finding the files for that printer's drivers.

Regarding paragraph 6 of the Official Action:

I) Teng's patent is not collecting copyright information i.e., it has no mention of copyright data at all. Again, Teng's patent is acquiring the client's operating system from the OS's registry.

Regarding paragraph 7 of the Official Action:

I) Teng's patent does not mention displaying any attribute collected data. In the lines specified, the patent is referring to presenting the list of files to the user that the system will install.

It is respectfully submitted that the Examiner has erred in the rejection of Claims 1-3, and 6-14 under 35 U.S.C. 102(e) as being anticipated by Teng et al. (U.S. Patent No. 6,094,679). The Examiner is reminded that: An invention which fails the test of §102 is said to be "anticipated". In order to anticipate an invention, the prior art revealed by the publication must "except for insubstantial differences, \*\*\*contain [] all of the same elements operating in the same fashion to perform an identical function." Popeil Bros., Inc. v. Schick Electric, Inc., 494 F.2d 162, 164, 181 USPQ 482, 483-484 (7<sup>th</sup> Cir. 1974)."  
(Emphasis added)

In Colt Industries Operating Corporation v. Index-Wserke KG, Hahn & Tessky, 205 USPQ 990 (D.C. Dis. Of Col., 1979) it is stated on page 1001 regarding an anticipation:

1. There can be no anticipation under 35 U.S.C. §102 unless all of the same elements are found in exactly the same situation and united in the same way to perform identical functions in a single prior art reference. Schroder v. Ownes-Corning Fiberglas Corp., 514 F.2d 901, 903-04, 185 USPQ 723, 724-726 (9<sup>th</sup> Cir. 1975).

2. To be an anticipation, a prior patent or publication must bear within its four corners adequate directions for practice of the patented invention. Congoleum Industries, Inc. v. Armstrong Cork Co. 339 F. Supp. 1036, 1052, 173 USPQ 147 (E.D. Pa. 1973), aff'd 510 F.2d 334, 184 USPQ 769 (3<sup>rd</sup> Cir. 1975).

And again in Paeco, Inc. v. Applied Moldings, Inc., 194 USPQ 353, 357 (3<sup>rd</sup> Cir. 1977) in discussing anticipation under 35 U.S.C. 102, the court stated:

"Anticipation occurs only when some single prior article, patent, or publication contained within its four corners every element of the claim in question; a patent is not anticipated when its elements are distributed among several prior publications or devices. See Line Material Co. v. Brady Elec. Mfg. Co., 7 F.2d 48, 50 (2d Cir. 1925); Philips Elec. And Pharmaceutical Industries Corp. v. Thermal and Elec. Industries. Inc. 450 F.2d 1164, 1169, 171 USPQ v641, 644-645 (3d Cir. 1971). Furthermore, in order to invalidate a patent on grounds of invalidity, the party asserting the invalidity bears a heavy burden of demonstrating it by clear and convincing proof. Aluminum Co. of America v. Amerola Product Corp., No. 76-1729, 194 USPQ 1, (3d Cir. Filed April 8, 1977); Tokyo Shibaura Electric Co. v. Zenith Radio Corp., No. 76-1237, 193 USPQ 73, (3d Cir., filed Jan. 7, 1977). For reasons which follow, we do not believe that AMI's proof on the issue of anticipation meets these exacting standards. (emphasis added).

Claims 4 and 5 were rejected under 35 U.S.C. 103(a) "as being unpatentable over Teng et al. (US Patent 6,094,679) and further in view of Menezes et al. (US Patent 5,621,894)". The supporting reasoning for this rejection is:

"Teng does not teach explicitly polling other platform. However, Menezes teaches polling other computers/Fax machines. (col. 17, line 55-67 to col. 20, line 23-39). Thus, it would have been obvious to one ordinarily skilled in the art at the time of the invention decide to use polling other platforms/devices in the network to collect

and consolidate the information in order to respond to the queried platform/device.

First of all, the Teng et al. patent completely fails as a prior art reference against the claims of this application for much more than the reason of not teaching "explicitly polling other platform" as specifically outlined above. The Examiner is being extremely general in his expansion of what in fact is actually taught by the Teng et al. and Menezes et al. patents. It is respectfully submitted that the logic used by the Examiner in this rejection is silly because if one were to follow what the Examiner has concluded, then any prior art detailing a computerlinked to a printer would cover all patents on how multiple computers networked to a printer can be done. But as the Examiner is well aware, this is simply not true!

It is respectfully submitted that none of the references cited by the Examiner whether considered by themselves or in any combination with one another, disclose or even remotely suggest Applicant's claimed invention. It is also respectfully submitted that the Examiner should have no difficulty coming to this same conclusion once the Examiner focuses on the fact that the present invention is directed to a multiple platform architecture data reporting system for managing attribute data, the system comprising: a system manager for collecting attribute data from multiple platforms; and a user interface connected to the system manager for displaying the collected attribute data to a user. Also the present invention is directed to a method for managing attribute data in a multiple platform architecture comprising the steps of: polling at least two platforms for attribute data; collecting the attribute data from the at least two platforms in response to the step of polling; and displaying the collected attribute data on a user display. An embodiment

of the present invention relates to a software copyright information managing system for managing software copyright data in a multiple platform electronic architecture comprising: a system controller for collecting the software copyright data from multiple platforms; memory for storing the software copyright data collected by the system controller; and a user interface connected to the system controller for displaying the software copyright data from the memory to a user. Neither the defined and claimed multiple platform system nor method for managing data in a multiple platform architecture is disclosed nor remotely suggested by the prior art.

It is respectfully submitted that the ultimate determination of obviousness is a question of law. See *In re Leuders*, 111 F.3d 1569, 1571, 42 USPQ2d 1481, 1482 (Fed. Cir. 1997). The factual predicates underlying an obviousness determination include the scope and content of the prior art, the differences between the prior art and the claimed invention, and the level of ordinary skill in the art. See *Monarch Knitting Mach. Corp. v. Sulzer Morat GmbH*, 139 F.3d 877, 881, 45 USPQ2d 1977, 1981 (Fed. Cir. 1998).

To reject claims in an application under section 103, an examiner must show an unrebutted prima facie case of obviousness. See *In re Deuel*, 51 F.3d 1552, 1557, 34 USPQ2d 1210, 1214 (Fed. Cir. 1995). In the absence of a proper prima facie case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). It is respectfully submitted that the Examiner has simply not met the required legal standards for a valid rejection under 35 U.S.C. 103.

It is also respectfully submitted that the Examiner has not set forth the factual evidence to support a proper rejection of the claims under 35 U.S.C. 103(a). As stated in *In re Lee* 61 USPQ2d 1430 @ page 1433:

[1] As applied to the determination of patentability vel non when the issue is obviousness, "it is fundamental that rejections under 35 U.S.C. § 103 must be based on evidence comprehended by the language of that section." In *re Grasselli*, 713 F.2d 731, 739, 218 USPQ 769, 775 (Fed. Cir. 1983). The essential factual evidence on the issue of obviousness is set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966) and extensive ensuing precedent. The patent examination process centers on prior art and the analysis thereof. When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness. See, e.g., *McGinley v. Franklin Sports, Inc.* 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001) ("the central question is whether there is reason to combine [the] references," a question of the fact drawing on the Graham factors).

"The factual inquiry whether to combine references must be thorough and searching." *Id.* It must be based on objective evidence of record. This precedent has been reinforced in myriad decisions, and cannot be dispensed with. See, e.g., *Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*, 229 F.3d 1120, 1124-25, 56 USPQ2d 1456, 1459 (Fed. Cir. 2000) ("a showing of a suggestion, teaching or motivation to combine the prior art references is an 'essential component of an obviousness holding'" (quoting *C.R. Bard, Inc., v. M3 Systems, Inc.*, 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998))); *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

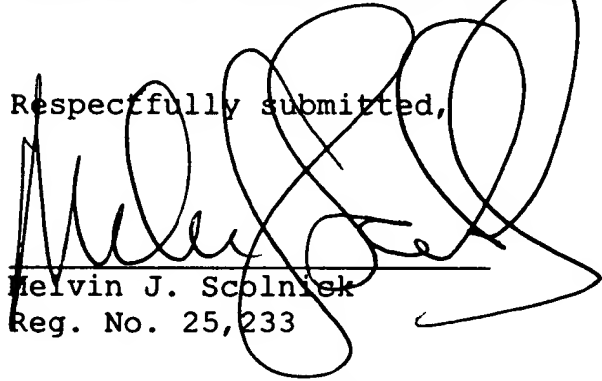
For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable



reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
Melvin J. Scolnick  
Reg. No. 25,233

5/7/02  
Date

Perman & Green, LLP  
425 Post Road  
Fairfield, CT 06430  
(203) 259-1800 (x133)  
Customer No.: 2512

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated below as first class mail in an envelope addressed to the Commissioner of Patents, Washington, D.C. 20231.

Date: 5/7/02

Signature: Emolina Rodriguez

Person Making Deposit



12

COPY OF PAPERS  
ORIGINALLY FILED

Application No. 148,804

Marked Up Specification Replacement Section

ABSTRACT OF THE DISCLOSURE

The invention relates to a multiple platform architecture data reporting system for managing attribute data. The system compris[ing]es: a system manager for collecting attribute data from multiple platforms[;] and a user interface connected to the system manager for displaying the collected attribute data to a user. Also disclosed is a method for managing attribute data in a multiple platform architecture comprising the steps of polling at least two platforms for attribute data, collecting the attribute data from the at least two platforms in response to the step of polling, and then displaying the collected attribute data on a user display.